

PREVENTION OF CHILD PORNOGRAPHY ORDINANCE

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE No. 31 OF 2003



TUNG Chee-hwa
Chief Executive
17 July 2003

An Ordinance to prohibit the production, possession and publication of child pornography; to amend the Crimes Ordinance to prohibit the use, procurement or offer of persons under the age of 18 for making pornography or for live pornographic performances, to extend the application of certain sexual offence provisions of that Ordinance to acts committed against children outside Hong Kong, and to prohibit the making of arrangements relating to the commission of those acts and the advertisement of such arrangements; and to make provision for connected purposes.

[]

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Prevention of Child Pornography Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—
“assisting officer” (協助人員) means a member of the Customs and Excise Service or a police officer called on to assist an authorized officer under section 5(2);

“authorized officer” (獲授權人員) means any person authorized by a warrant issued under section 5;

“child” (兒童) means a person under the age of 16;

“child pornography” (兒童色情物品) means—

- (a) a photograph, film, computer-generated image or other visual depiction that is a pornographic depiction of a person who is or is depicted as being a child, whether it is made or generated by electronic or any other means, whether or not it is a depiction of a real person and whether or not it has been modified; or
- (b) anything that incorporates a photograph, film, image or depiction referred to in paragraph (a),

and includes data stored in a form that is capable of conversion into a photograph, film, image or depiction referred to in paragraph (a) and anything containing such data;

“distribute” (分發) includes making any message or data available through any means of electronic transmission;

“film” (影片) means—

- (a) a cinematograph film and includes any sound-track associated with such film;
- (b) a videotape or laserdisc and includes any sound-track associated with such videotape or laserdisc;
- (c) a still film and includes any sound-track associated with such film;
- (d) any other record of visual moving images that is capable of being used for the subsequent screening of those images and includes any sound-track associated with such record;
- (e) any combination of the films referred to in paragraphs (a), (b), (c) and (d); or
- (f) an excerpt or part of a film referred to in paragraph (a), (b), (c), (d) or (e);

“photograph” (照片) includes the negative as well as the positive version of a photograph;

“pornographic depiction” (色情描劃) means—

- (a) a visual depiction that depicts a person as being engaged in explicit sexual conduct, whether or not the person is in fact engaged in such conduct; or
- (b) a visual depiction that depicts, in a sexual manner or context, the genitals or anal region of a person or the breast of a female person,

but, for the avoidance of doubt, a depiction for a genuine family purpose does not, merely because it depicts any part of the body referred to in paragraph (b), fall within that paragraph;

“still film” (定畫影片) means a slide, or a series of slides, including single frames of a film, of visual non-moving images that is or are capable of being used for the subsequent screening of those images.

(2) For the purposes of this Ordinance, a person publishes any child pornography if he, whether or not for any form of reward—

(a) distributes, circulates, sells, hires, gives or lends the child pornography to another person; or

(b) shows the child pornography in any manner whatsoever to another person (including but not limited to showing, playing or projecting the child pornography to or for another person using any machinery or apparatus and publicly displaying the child pornography).

(3) Any child pornography that is displayed in or so as to be visible from—

(a) any public street or pier, or public garden; or

(b) any place to which the public have or are permitted to have access (whether on payment or otherwise),

shall for the purposes of this Ordinance be regarded as child pornography publicly displayed.

3. Offences relating to child pornography

(1) Any person who prints, makes, produces, reproduces, copies, imports or exports any child pornography commits an offence and is liable—

(a) on conviction on indictment to a fine of \$2,000,000 and to imprisonment for 8 years; or

(b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.

(2) Any person who publishes any child pornography commits an offence and is liable—

(a) on conviction on indictment to a fine of \$2,000,000 and to imprisonment for 8 years; or

(b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.

(3) Any person who has in his possession any child pornography (unless he is the only person pornographically depicted in the child pornography) commits an offence and is liable—

(a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 5 years; or

(b) on summary conviction to a fine of \$500,000 and to imprisonment for 2 years.

(4) Any person who publishes or causes to be published any advertisement that conveys or is likely to be understood as conveying the message that any person has published, publishes or intends to publish any child pornography commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$2,000,000 and to imprisonment for 8 years; or
- (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.

4. Defences

(1) It is a defence to a charge under section 3 for the defendant to establish—

- (a) that the depiction that is alleged to constitute child pornography has artistic merit; or
- (b) that the thing that is alleged to constitute child pornography is, or was at the time the offence is alleged to have been committed, classified as a Class I or a Class II article under the Control of Obscene and Indecent Articles Ordinance (Cap. 390).

(2) It is a defence to a charge under section 3 (other than section 3(3)) for the defendant to establish—

- (a) that he committed the act that is the subject of the charge for a genuine educational, scientific or medical purpose;
- (b) that the act that is the subject of the charge otherwise served the public good and did not extend beyond what served the public good;
- (c) that he had not seen the child pornography and did not know, nor did he have any reasonable cause to suspect, it to be child pornography; or
- (d) that—
 - (i) he took all such steps as were reasonable and practicable in the circumstances of the case to ascertain the age of the person pornographically depicted in the child pornography when originally depicted;
 - (ii) in so far as the defendant was able to influence in any way how the person was depicted, he took all such steps as were reasonable and practicable in the circumstances of the case to ensure that the person was not depicted as a child; and
 - (iii) he believed on reasonable grounds that the person was not a child when originally depicted and that the person was not depicted as a child.

(3) It is a defence to a charge under section 3(3) for the defendant to establish—

- (a) that his possession of the child pornography was for a genuine educational, scientific or medical purpose;

- (b) that his possession of the child pornography otherwise served the public good and did not extend beyond what served the public good;
- (c) that he had not seen the child pornography and did not know, nor did he suspect, it to be child pornography;
- (d) that he had not asked for any child pornography and, within a reasonable time after it came into his possession, he endeavoured to destroy it; or
- (e) that he believed that the person pornographically depicted in the child pornography was not a child when originally depicted and that the person was not depicted as a child.

(4) Unless subsection (5) applies, a defendant is to establish any fact that needs to be established for the purpose of a defence under this section on the balance of probabilities.

(5) A defendant charged with an offence under section 3(3) is to be taken to have established any fact that needs to be established for the purpose of a defence under subsection (3)(c), (d) or (e) if—

- (a) sufficient evidence is adduced to raise an issue with respect to the fact; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.

5. Entry, search and seizure under warrant

(1) If, on an application made by a police officer or member of the Customs and Excise Service by laying an information on oath, a magistrate is satisfied that there are reasonable grounds for suspecting that there is in or on any premises, place, vessel, aircraft or vehicle—

- (a) any thing in respect of which an offence under section 3 has been or is being or is about to be committed; or
- (b) any thing that is, or contains, evidence of the commission of any such offence,

he may issue a warrant authorizing any person being a police officer or member of the Customs and Excise Service to enter or board such premises, place, vessel, aircraft or vehicle, and search for, seize, remove and detain any such thing.

(2) An authorized officer may—

- (a) if he is a police officer, call on any member of the Customs and Excise Service; or
- (b) if he is a member of the Customs and Excise Service, call on any police officer,

to assist him in the exercise of the powers conferred by this section.

(3) An authorized officer or an assisting officer may, at any time of the day or night—

- (a) enter and search any premises or place named in the warrant; or
- (b) stop, board and search any vessel, aircraft or vehicle named in the warrant.

(4) An authorized officer or an assisting officer may seize, remove and detain—

- (a) any thing in respect of which he suspects on reasonable grounds that an offence under section 3 has been or is being or is about to be committed; and
- (b) any thing that he suspects on reasonable grounds to be, or to contain, evidence of the commission of such an offence.

(5) In this section—

“aircraft” (飛機) does not include a military aircraft;

“vehicle” (車輛) does not include a military vehicle;

“vessel” (船隻) does not include a ship of war or a ship having the status of a ship of war.

6. Ancillary powers of officers under warrants

An authorized officer or an assisting officer may, in relation to his powers under a warrant—

- (a) use such force as is reasonably necessary to enter and search any premises or place that he is empowered to enter and search;
- (b) use such force as is reasonably necessary to stop, board and search any vessel, aircraft or vehicle that he is empowered to stop, board and search;
- (c) use such force as is reasonably necessary to remove any person or thing obstructing him in the exercise of those powers;
- (d) detain any person found in or on any premises, place, vessel, aircraft or vehicle that he is empowered to enter, or board, and search until it has been searched; and
- (e) prevent any person from approaching, boarding or leaving any vessel, aircraft or vehicle that he is empowered to board and search until it has been searched.

7. Seizure by police officer or member of Customs and Excise Service

In addition to any power he may have under section 5, any police officer or member of the Customs and Excise Service may seize, remove and detain—

- (a) any thing in a public place, in respect of which he suspects on reasonable grounds that an offence under section 3 has been or is being or is about to be committed; and
- (b) any thing in a public place, that he suspects on reasonable grounds to be, or to contain, evidence of the commission of such an offence.

8. Obstruction

(1) Any person who—

- (a) obstructs an authorized officer or an assisting officer in the exercise of any power conferred by this Ordinance (other than section 7); or
- (b) fails to comply with any reasonable requirement, direction or demand given or made by an authorized officer or an assisting officer in the execution of a warrant,

commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(2) Any person who obstructs any police officer or member of the Customs and Excise Service in exercising a power conferred by section 7 commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

9. Liability to forfeiture

(1) The following are liable to forfeiture in accordance with this Ordinance—

- (a) any child pornography that has come into the possession of the police or the Customs and Excise Service;
- (b) any—
 - (i) machinery or apparatus used for showing, playing or projecting any child pornography; or
 - (ii) machinery, plate, implement, utensil, photographic film or material used for the purpose of the commission of an offence under section 3(1);
- (c) any thing seized, removed or detained under section 5 or 7.

(2) Subsection (1)(b) does not apply to any thing that is used by a public officer in the execution of his duties.

10. Order and direction for forfeiture

(1) Subject to subsection (2) and section 11, where an application is made by a public officer to a magistrate for an order for forfeiture, the magistrate may, in the case of any thing that is before him and is liable to forfeiture under section 9, order it to be forfeited.

(2) Where a person charged with an offence under section 3 has established any ground of defence—

(a) under section 4, an order for forfeiture shall not be made under subsection (1) in respect of any thing that relates to the charge and is not child pornography; or

(b) under section 4(1), (2)(a) or (b) or (3)(a) or (b), an order for forfeiture shall not be made under subsection (1) in respect of any thing that relates to the charge and is child pornography.

(3) An order for forfeiture of any thing may be made under subsection (1) notwithstanding that no person is convicted of any offence in connection with the thing.

(4) Any thing that is ordered to be forfeited under subsection (1) shall be disposed of in such manner as the magistrate directs.

11. Procedure in relation to forfeiture

(1) Subject to subsections (3) and (4), before making an order for forfeiture of any thing under section 10, the magistrate shall issue a summons to—

(a) the occupier of any premises or any place or, in the case of a stall, the owner or the occupier of the stall, in or from which the thing was seized; and

(b) the owner of the thing seized,

to appear on a day specified in the summons to show cause why the thing should not be forfeited.

(2) In addition to any person mentioned in subsection (1), any other person being the producer or manufacturer of any thing seized or a person into whose hands any such thing may have passed before seizure, or a person who has an interest in any thing seized, may appear before the magistrate on the day specified in the summons to show cause why the thing should not be forfeited.

(3) If the magistrate is satisfied that any person mentioned in subsection (1) cannot for any reason be found or ascertained, he may dispense with the issue of a summons to that person.

(4) If any summons issued under subsection (1) has not for any reason been served and the magistrate is satisfied that all reasonable efforts were made to serve the summons on the person named in the summons, he may make an order for forfeiture under section 10 notwithstanding that the summons was not served and that the person named in the summons has not been given an opportunity to show cause why the thing should not be forfeited.

(5) An order for forfeiture of any thing shall, unless the magistrate considers that there are special reasons for directing otherwise, apply to the whole of the thing.

12. Removal or effacement of child pornography

(1) If, on the application made by any public officer, a magistrate is satisfied that any child pornography is publicly displayed on any building or other structure, the magistrate may order the owner or occupier of the building or structure to remove or efface that child pornography.

(2) If a person against whom an order is made under subsection (1) fails to comply with the order within the time specified in the order, or if no time is specified, within a reasonable time, the magistrate may, on the application of any public officer by warrant, empower any police officer, with such assistance as may be necessary, to enter and if necessary to break into or forcibly enter the premises or place concerned and execute that order.

(3) A police officer in executing an order under subsection (1) shall have all the powers of a police officer acting in the execution of a warrant under section 5, including the powers mentioned in section 6.

(4) The Commissioner of Police may apply to a magistrate for an order that a person who has failed to comply with an order made against him under subsection (1) shall pay any expenses reasonably incurred by a police officer in the execution of the order under this section and the magistrate may make an order for such payment.

13. Procedure in relation to removal or effacement

(1) Before making an order to remove or efface any child pornography under section 12 the magistrate shall, unless he is satisfied that the owner or occupier of the building or other structure mentioned in that section cannot for any reason be found or ascertained, issue a summons to him to appear on a day specified in the summons to show cause why an order should not be made to remove or efface that child pornography.

(2) In addition to the person mentioned in subsection (1), any other person being the owner, producer or manufacturer of the child pornography mentioned in section 12(1) may appear before the magistrate on the day specified in the summons to show cause why the order to remove or efface that child pornography should not be made.

(3) Section 11(4) and (5) shall apply in relation to an order to remove or efface child pornography under section 12 as they apply in relation to an order for forfeiture under section 10.

Amendments to Crimes Ordinance

14. Section added

The Crimes Ordinance (Cap. 200) is amended by adding—

**“138A. Use, procurement or offer of persons
under 18 for making pornography or
for live pornographic performances**

(1) Any person who uses, procures or offers another person who is under the age of 18 for making pornography, or for a live pornographic performance, in which that other person is or is to be pornographically depicted, commits an offence and is liable on conviction on indictment—

- (a) if the offence is committed in relation to a person under the age of 16, to a fine of \$3,000,000 and to imprisonment for 10 years;
- (b) if the offence is committed in relation to a person of the age of 16 or above but under 18, to a fine of \$1,000,000 and to imprisonment for 5 years.

(2) It is a defence to a charge of using or procuring a person of the age of 16 or above but under 18 for making pornography for the defendant to establish that—

- (a) at the time of the alleged offence, the person pornographically depicted for making pornography consented to being so depicted; and
- (b) the pornography so made is solely for the personal use of the defendant and the person depicted.

(3) It is a defence to a charge of using or procuring a person of the age of 16 or above but under 18 for a live pornographic performance for the defendant to establish that—

- (a) at the time of the alleged offence, the person pornographically depicted for the performance consented to being so depicted; and

(b) the audience of the performance consisted of the defendant only.

(4) For the purposes of this section, to depict a person pornographically means—

(a) to visually depict a person as being engaged in explicit sexual conduct, whether or not the person is in fact engaged in such conduct; or

(b) to visually depict, in a sexual manner or context, the genitals or anal region of a person or, in the case of a female person, her breast,

but, for the avoidance of doubt, a depiction for a genuine family purpose does not, merely because it depicts any part of the body referred to in paragraph (b), fall within that paragraph.

(5) In this section—

“live pornographic performance” (真人色情表演) includes any play, show, exhibition, act, entertainment, presentation, display or other performance of any kind in which a person is pornographically depicted;

“pornography” (色情物品) means—

(a) a photograph, film, computer-generated image or other visual depiction that depicts a person pornographically, whether it is made or generated by electronic or any other means and whether or not it has been modified; or

(b) anything that incorporates a photograph, film, image or depiction referred to in paragraph (a),

and includes data stored in a form that is capable of conversion into a photograph, film, image or depiction referred to in paragraph (a) and anything containing such data.”.

15. Conviction for offence other than that charged

Section 149(1) is amended by repealing “the Schedule” where it twice appears and substituting “Schedule 1”.

16. Subheading and sections added

The following are added immediately after section 153O—

**“Certain sexual offences committed against
children outside Hong Kong; related
arrangements and advertisements**

**153P. Extra-territorial effect of sexual offence
provisions listed in Schedule 2**

(1) Where—

- (a) (i) a person who is a Hong Kong permanent resident or who ordinarily resides in Hong Kong;
- (ii) a body corporate that is incorporated or registered in Hong Kong; or
- (iii) a body of persons, whether corporate or unincorporate, that has a place of business in Hong Kong,

commits any act outside Hong Kong; and

(b) the act—

- (i) would have constituted an offence under any of the provisions specified in Schedule 2 had it been committed in Hong Kong; and
- (ii) is committed in relation to a person under the age of 16 or, in the case of an offence under section 123 or 140, under the age of 13,

then the person or body shall be guilty of that offence.

(2) Where any person or body of persons, whether corporate or unincorporate, commits any act outside Hong Kong that—

(a) would have constituted an offence under any of the provisions specified in Schedule 2 had it been committed in Hong Kong; and

(b) is committed in relation to a person who is a Hong Kong permanent resident or who ordinarily resides in Hong Kong and is—

- (i) under the age of 16; or
- (ii) in the case of an offence under section 123 or 140, under the age of 13,

then the person or body shall be guilty of that offence.

(3) Where a defendant is charged with an offence that is an offence by virtue of subsection (1) or (2) and involves a sexual act done by him with or to another person, it is a defence for the defendant to establish that—

(a) at the time of the sexual act, there existed between the defendant and that other person a marriage that was valid, or recognized as valid, under the law of—

- (i) the place where the marriage was solemnized;
 - (ii) the place where the sexual act was done; or
 - (iii) the place of the defendant's residence or domicile;
- (b) when it was solemnized, the marriage was genuine; and
- (c) at the time of the sexual act, that other person consented to the sexual act.

153Q. Arrangement or advertisement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision

(1) Any person who makes arrangements, whether wholly or partly in Hong Kong, for himself or another person to commit any act in relation to a person under the age of 16 that would constitute an offence under any of the provisions specified in Schedule 2 if it were committed in Hong Kong, commits an offence and is liable on conviction on indictment to a fine of \$3,000,000 and to imprisonment for 10 years.

(2) Any person who publishes, distributes or publicly displays, or causes or permits the publication, distribution or public display of an advertisement for any arrangements referred to in subsection (1) commits an offence and is liable on conviction on indictment to a fine of \$3,000,000 and to imprisonment for 10 years.

(3) For the purposes of subsection (2), “distribute” (分發) includes making any message or data available through any means of electronic transmission.

(4) It is a defence to a charge under subsection (2) for the defendant to establish that he had not seen the advertisement and did not know, nor did he have any reasonable cause to suspect, it to be an advertisement mentioned in that subsection.

153R. Amendment of Schedule 2

The Chief Executive in Council may, with the approval of the Legislative Council, amend Schedule 2 by order published in the Gazette.”.

17. Other offences of which accused may be convicted

The Schedule is renumbered as Schedule 1.

18. Schedule 2 added

The following is added—

“SCHEDULE 2

[ss. 153P, 153Q & 153R]

SEXUAL OFFENCE PROVISIONS THAT HAVE
EXTRA-TERRITORIAL EFFECT

Section	Description of offence
118	Rape
118A	Non-consensual buggery
118B	Assault with intent to commit buggery
118C	Homosexual buggery with or by man under 21
118D	Buggery with girl under 21
118F	Homosexual buggery committed otherwise than in private
118G	Procuring others to commit homosexual buggery
118H	Gross indecency with or by man under 21
118J	Gross indecency by man with man otherwise than in private
118K	Procuring gross indecency by man with man
119	Procurement by threats
120	Procurement by false pretences
121	Administering drugs to obtain or facilitate unlawful sexual act
122	Indecent assault
123	Intercourse with girl under 13
124	Intercourse with girl under 16
126	Abduction of unmarried girl under 16
130	Control over persons for purpose of unlawful sexual intercourse or prostitution
132	Procurement of girl under 21
134	Detention for intercourse or in vice establishment
135	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16
140	Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse
141	Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act
146	Indecent conduct towards child under 16”.

Consequential Amendments

Criminal Procedure Ordinance

19. Interpretation

Section 79A of the Criminal Procedure Ordinance (Cap. 221) is amended by repealing the definition of “offence of sexual abuse” and substituting—

““offence of sexual abuse” (性虐待罪行) means—

- (a) an offence against Part VI or Part XII, other than sections 126, 147A and 147F, of the Crimes Ordinance (Cap. 200); or
- (b) an offence against section 3 of the Prevention of Child Pornography Ordinance (31 of 2003);”.

Child Care Services Ordinance

20. Offences relevant to meaning of “prohibited person”

The Schedule to the Child Care Services Ordinance (Cap. 243) is amended—

(a) in item 5—

(i) by adding—

“section 138A

Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances”;

(ii) by adding—

“section 153Q

Arrangement or advertisement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision

For the avoidance of doubt, where an offence under a section of the Crimes Ordinance (Cap. 200) may, by virtue of section 153P of that Ordinance, be constituted by an act committed outside Hong Kong, a reference in this item to an offence under that section includes a reference to an offence so constituted.”;

(b) by adding immediately after item 7—

“7A. Prevention of
Child Pornography
Ordinance
(31 of 2003)

section 3

Offences relating to child
pornography”.

Customs and Excise Service Ordinance

21. Ordinances referred to in sections 17 and 17A

Schedule 2 to the Customs and Excise Service Ordinance (Cap. 342) is amended by adding “Prevention of Child Pornography Ordinance (31 of 2003)”.

Control of Obscene and Indecent Articles Ordinance

22. Jurisdiction

Section 8 of the Control of Obscene and Indecent Articles Ordinance (Cap. 390) is amended—

- (a) in subsection (1), by adding “for the purposes of this Ordinance” after “determine”;
- (b) in subsection (2), by repealing “a Tribunal may” and substituting “, a Tribunal shall refuse an application to make a classification if it is of the opinion that the article may be child pornography within the meaning of section 2(1) of the Prevention of Child Pornography Ordinance (31 of 2003), and may in any other case”.

23. Registrar to give notice

Section 19(1) is amended by adding before paragraph (a)—

“(aa) of any refusal of an application under section 8(2) in relation to an article that, in the opinion of a Tribunal, may be child pornography;”.

24. Tribunal to have exclusive jurisdiction

Section 29 is amended—

- (a) in subsection (1), by adding “for the purposes of this Ordinance” after “determine”;
- (b) in subsection (2), by adding “for the purposes of this Ordinance” after “arises”;
- (c) in subsection (3), by adding “for the purposes of this Ordinance” after “admits”.

Post-Release Supervision of Prisoners Regulation

25. Specified offences

Schedule 1 to the Post-Release Supervision of Prisoners Regulation (Cap. 475 sub. leg.) is amended, in item 4, by adding at the end—

“For the avoidance of doubt, where an offence under a section of the Crimes Ordinance (Cap. 200) may, by virtue of section 153P of that Ordinance, be constituted by an act committed outside Hong Kong, a reference in this item to an offence under that section includes a reference to an offence so constituted.”.

Social Workers Registration Ordinance

26. Description of offences which disentitle persons from being or continuing to be registered social workers

Schedule 2 to the Social Workers Registration Ordinance (Cap. 505) is amended, in item 2—

- (a) by adding—
“138A Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances”;
- (b) by adding—
“153Q(1) Arrangement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision

For the avoidance of doubt, where an offence under a section of the Crimes Ordinance (Cap. 200) may, by virtue of section 153P of that Ordinance, be constituted by an act committed outside Hong Kong, a reference in this item to an offence under that section includes a reference to an offence so constituted.”.